

Nebraska Liquor Control Commission
Nebraska Rules and Regulations

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CHAPTER 1 - PRACTICE AND PROCEDURE

001 PUBLIC MEETINGS

001.01 Public meetings of the Nebraska Liquor Control Commission shall be held at its headquarters office, located at 301 Centennial Mall, South, Lincoln, Nebraska, as noticed by the Commission unless otherwise ordered by the Commission.

001.02 Notice of the time and date of public meetings, along with an agenda of the subject matters to be considered at each public meeting shall be posted by the Executive Director of the Commission at headquarters office for the purpose of public notice, inspection and review at least three days prior to the each meeting of the Commission provided, at least two of the three days shall be days in which the headquarters office is open for general business, and provided further, when it is necessary to hold an emergency meeting without reasonable advance public notice the nature of the emergency shall be stated in the minutes and any formal action taken at such meeting shall pertain only to the emergency.

001.03 Public presentation(s) before the Commission at a public meeting shall be allowed at the start of a scheduled meeting with the following provisions:

001.03A Any written materials presented to the Commission shall be done so by submitting four copies thereof to the Executive Director who shall distribute a copy to each commissioner;

001.03B The Commission may limit the length of time for public presentations; and

001.03C In the interest of Commission review regarding any subject matter before it in a public meeting, the Commission may waive the provisions set out hereinabove established by this paragraph.

002 CONTESTED CASES

002.01 Notices of formal hearings conducted under the provisions of the Nebraska Liquor Control Act and the Rules and Regulations of the Nebraska Liquor Control Commission shall contain the following:

002.01A The date and time of the hearing;

002.01B The place of the hearing;

002.01C The nature of the proceeding; and

002.01D The issues involved, if they can be fully stated at the time. If the issues cannot be fully stated at the time of the notice, and amended notice containing the issues involved shall be issued as soon as the issues can be fully stated.

002.02 Continuances agreed and consented to by all parties to a hearing shall be allowed for a period of the time not to exceed 30 days. Any continuances of a hearing beyond the 30 days shall be accepted or denied by the Commission.

002.03 The Commission may order two or more proceedings, which are legally or factually related, to be heard and considered together on a consolidated record unless any party thereto makes a showing sufficient to satisfy the Commission that prejudice would result therefrom.

002.04 The Commission may procure waiver of any notice required by this rule from all parties to a proceedings and hold the hearing as soon as necessary. In the event the Commission declares an emergency exists, the Commission may, upon written notice to the parties, waive any or all of the requirements of this rule and set a matter for hearing as soon as the

Commission determines that it is required by the public interest.

002.05 In all proceedings wherein the Commission has authority to subpoena witnesses, a subpoena requiring the attendance of a witness will be issued by the Commission on written application of any party, or on the order of the Commission. Subpoenas for the production of accounts, books, documents, or papers are required and the facts expected to be proved thereby. All parties directed to produce accounts, books, documents, or papers shall furnish and deliver the same at the time and to the place specified in the subpoena. A subpoena issued pursuant to this rule shall be served in a manner permitted by law which shall include service by certified mail, return receipt requested. In the case of disobedience to a subpoena, the Commission may invoke the aid of any court of this state in requiring the attendance and testimony of the witnesses and the production of accounts, books, documents, or papers. Any charges for service of a subpoena are to be paid prior to the date set for hearing by the parties at whose instance the subpoena is issued.

002.06 Any witness who is summoned and who responds thereto is entitled to the same fees and expenses as is paid for like service in the District Court for the county wherein such hearing is held. Mileage for officers and fees for service of documents served by Order of the Commission, when served by law enforcement officers, shall be equal to those established by law in similar cases for charges in the District Court of said county.

002.07 The taking of depositions and proceedings before the Commission shall be in the manner prescribed by law for taking depositions in civil actions in the District Courts for the State of Nebraska.

002.08 Formal hearings held before the Commission shall conform to the requirements of Chapter 84, Section 914, R.R.S., Nebraska, as amended, unless otherwise provided for by this rule.

002.09 The Commission, when it deems it necessary in the enforcement of the laws of Nebraska and Rules and Regulations of the Commission, may cite a licensee before it for a formal hearing. The citations shall be in writing and definitely state the charges or complaints the licensee is called upon to answer. The charges or complaint that the licensee is called upon to answer may be amended at the time of the hearing provided the amended charges or complaint is agreed to by the licensee called upon to answer. The Commission may authorize certain law enforcement officers to issue citations to licensees.

002.10 If it is found by the Commission that any licensee is violating any provisions of the Nebraska Liquor Control Act or the Rules and Regulations of the Commission promulgated thereunder, or is failing to observe in good faith the purposes of said act, the license of such licensee may be suspended, cancelled or revoked by the Commission.

002.11 The licensee may appear in person and by counsel, and produce such witnesses and evidence as the licensee deems necessary in the protection of the licensee's interest.

002.12 Upon the suspension, cancellation or revocation of any license, the local governing body shall be notified of such suspension, cancellation or revocation and said licensee shall be prohibited from operation under such license during such period of time.

002.13 All orders or decisions of the Commission and rehearings or appeals of such orders or decisions of the Commission shall conform to the requirements of Chapter 53, Section 1,116, R.R.S., Nebraska, as amended. All orders and decisions of the Commission assessing penalties, fixing the time of hearings or rehearings, or pertaining to motions filed with respect to the same, shall become effective as such when recorded in the records of the Commission.

002.14 The Commission may employ a hearing officer who shall assist the Commission with the review of any issue or matter which the Commission deems proper in order to carry out the provisions of the Nebraska Liquor Control Act and who shall perform such other duties as the Commission may prescribe, provided, any issue or matter reviewed by a hearing officer involving a contested case shall conform to the requirements of 237-LCC1-002, and provided further, if a hearing is conducted by a hearing officer, the hearing officer shall submit a report of the findings made by such hearing officer along with a recommendation of order or decision to the Commission within 20 days of the date of such hearing, and a copy of the report and recommendation of the hearing officer shall be forwarded to all parties requesting the same, and provided further, any recommendation of order or decision made to the Commission by a hearing officer will not be considered an order or decision of the Commission unless accepted and affirmed by the Commission, and the Commission may further reverse, adopt, modify, supplement, amend or reject the recommendation of order or decision by the hearing officer, in whole or in part, and provided further, upon its motion or motion by any party to a hearing held before a hearing

officer, the Commission shall allow a rehearing before the Commission of any issue or matter reviewed by a hearing officer. The written motion by an outside party shall be in writing and must be made within 20 days of the date of the Commission's decision and shall include the reasons why a rehearing should take place.

002.15 Any hearing conducted by a hearing officer shall require the department to prepare an official record of the hearing, including all testimony recorded mechanically or stenographically, and all exhibits introduced. The department is not required to transcribe such record except pursuant to an appeal, except that, upon written request and receipt of a reasonable fee for transcribing such record, the department may transcribe the record or allow for its transcription by the persons requesting.

003 PROMULGATION, AMENDMENT OR REPEAL OF RULES: DECLARATORY RULINGS

003.01 Any interested person may petition the Commission requesting the promulgation, amendment or repeal of any rule of the Nebraska Liquor Control Commission. The form for such petition or procedure for the submission, consideration or disposition of such petition shall be as set forth and provided for by 237-LCC1-004.

003.02 Any interested person may petition the Commission to issue a declaratory ruling with respect to the applicability to any person, property or state of facts or any rule or statute enforceable by the Commission. The form for such petition or procedure for the submission, consideration or disposition of such petition shall be set forth and provided for by 237-LCC1-004. A declaratory ruling, if issued after argument and stated to be binding upon the petitioner or the Commission by the Nebraska Liquor Control Commission shall remain binding unless it is altered or set aside by a court.

003.03 Submission of petitions as allowed for by 237-LCC1-004 shall be made to the Nebraska Liquor Control Commission in duplicate. The Commission shall offer consideration of any petition submitted as set forth hereinabove within a reasonable amount of time at a public meeting or by hearing before the Commission. After consideration of any petition received by the Commission as set forth hereinabove, the Commission shall dispose of the same by proper order of the Commission.

004 PETITION: FORM:

BEFORE THE NEBRASKA LIQUOR CONTROL COMMISSION
STATE OF NEBRASKA

In the matter of:	Petition For:
_____)	_____
_____)	_____
_____)	_____

(Specify request for promulgation or
repeal of rule or for declaratory ruling on)

(Give name & address of petitioner) _____

(Specify statute or rule)

COMES NOW PETITIONER and requests the Nebraska Liquor Control
Commission for a(n) (promulgation, amendment or repeal of rule _____)
or declaratory ruling with respect to the applicability of the aforementioned
(specify statute or rule).

The following are statements of facts that shall apply:

Petitioner states that the aforementioned (request for promulgation,
amendment or repeal of rule) or (declaratory ruling) is needed for the
following reason(s):

(Show how an appropriate action of the Commission would be in the best interest of the State of Nebraska or would terminate controversy or uncertainty) Petitioner alleges that the following named persons are the only persons who have or claim any interest, or would be affected by the disposition of this petition:

(Name)	(Address)	(City)	(State)
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WHEREFORE, petitioner prays that the Nebraska Liquor Control Commission take the following action:

(Date)	(Signature of Petitioner)
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005 FAILURE TO COMPLY WITH ORDER OF COMMISSION

005.01 Willful failure or refusal by a licensee to comply with a specific written order of the Commission, which has been made by the Commission, in the enforcement of the laws of Nebraska or rules of the Commission, shall be grounds for suspension, cancellation or revocation of said license after formal public hearing.

006 MANDATORY MEETING

006.01 The Commission may order any licensee to appear before it to

discuss in an informal matter any issue involving that licensee which is of concern to the Commission. Failure to comply with an order requiring a licensee to appear before the Commission may result in an action for failure to comply with an order of the Commission.

007 PENALTY IN ABEYANCE

007.01 It is the intent of the Nebraska Liquor Control Commission to provide assistance to liquor licensees in obtaining guidance for good management skills and styles, to facilitate operating their businesses within the guidelines established by the Nebraska State Statutes and Liquor Control Commission's rules.

007.02 The "Penalty In Abeyance" allows the Liquor Control Commission to delay a penalty for a violation (in abeyance) for a period of time. This period of time allows the Commission to scrutinize the management, premises, and training of employees of the licensee. The Commission may determine, through this process, that a lesser penalty is warranted for the violation.

007.03 During the period the penalty is held in abeyance, the licensee may be required to follow certain guidelines. Some corrective actions may be required to improve management styles, including employee training. This period of time will allow the Commission to exercise its "broad powers" to improve professional liquor dispensing in licensed establishments in Nebraska.

007.04 Should the Commission elect to require a licensee or employees to receive server training during the period of abeyance, the course shall be one approved by the education review committee as appointed by the Commission.

007.05 Should the Commission require the licensee to report to a designee during the period of abeyance, the designee may be an employee of the Liquor Control Commission, an officer of the Nebraska State Patrol or other enforcement agency, or other local authority selected by the Commission.

007.06 The "penalty in abeyance" process would follow these steps:

007.06A On the day of hearing:

007.06A1 Liquor Control Commission finds licensee guilty of violation.

007.06A2 Penalty is placed in abeyance for a period of 12 months (or other appropriate time period).

007.06A3 "Preconditions of sanction" are explained and written copy furnished to licensee.

007.06A4 Entry is made on licensee's record that there is a penalty in abeyance.

007.06B Upon successful completion of period of abeyance:

007.06B1 Preconditions have been successfully met.

007.06B2 Placed on Commission's hearing agenda for final disposition.

007.06B3 Commission would establish penalty (i.e., letter of reprimand, minimal suspension, etc.).

007.06B4 Entry is made on licensee's record of final sanction.

007.06C Upon unsuccessful completion of period of abeyance:

007.06C1 Should a violation of the established precondition occur:

007.06C1A The license would be set for a show cause hearing to show why abeyance should not be terminated and immediate sanctions imposed.

007.06C2 Should a violation of statute, rule, etc. occur during period of abeyance:

007.06C2A Hearing is held on 2nd offense.

007.06C2B Finding of guilt for new offense (If found not guilty, abeyance continues).

007.06C2C Appeal period of new offense is exhausted.

007.06C2D Show cause hearing is placed on agenda to show cause why abeyance should not be terminated and immediate sanctions imposed.

007.06C2E Sanction for first violation is imposed.

007.06C2F Entry is placed on licensee's record of final sanction.

008 PENALTY FOR LATE FEES

008.01 Every licensee shall pay all fees required under the Liquor Control Act in a timely manner. The failure to pay a requisite fee by the date prescribed by law and regulation may result in the suspension, cancellation or revocation of the license held, after a formal hearing before the Commission.

CHAPTER 2 - REQUIREMENTS FOR LICENSEES

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CHAPTER 2 - REQUIREMENTS FOR LICENSEES

001 GENERAL REQUIREMENTS

001.01 The licensee shall, at all times, be responsible for the licensed premises and for the control, sale and dispensing of alcoholic liquors permitted by the license. Only the licensee may receive the proceeds resulting from the sale or dispensing of alcoholic liquor except (a) a manager may receive a percentage of gross or net sales as employment compensation, (b) a landlord may receive a percentage of gross sales as rent, (c) the franchisor may receive a percentage of gross sales as a franchise fee and (d) except whereas otherwise provided by the provisions of the Nebraska Liquor Control Act.

001.02 In cases wherein the commission has fixed certain requirements and prescribed certain conditions upon which a license is granted or is permitted to continue in full force and effect by order of the commission, whether such requirements or conditions are imposed at a formal hearing, by a written notice or in a written stipulation, such requirements or conditions shall be deemed a part of the license issued by the commission as though actually endorsed thereon; and any violation or breach of any such requirements or conditions is prohibited.

002 PARTNERSHIP WHEN BUSINESS OPERATED ON PERCENTAGE OR SHARE BASIS

002.01 Any license covering premises financed or operated on a percentage or share of the business basis will be considered a partnership between the parties involved insofar as the rights and duties of the licensee of record under his license are concerned.

003 TRANSFER OF STOCK OF TERMINATED LICENSE

003.01 When a licensee has discontinued business under his license and his license has been terminated, he may apply in writing to the commission for permission to transfer his stock of alcoholic liquors to another qualified licensee. He shall furnish the commission with an inventory of the liquors contemplated in such transfer.

003.02 The licensee who desires to purchase such stock of liquor shall also apply in writing to the commission for permission to make such purchase and he shall report to the commission in writing the quantity, brands, and types of such liquor purchased and the address to which it was actually delivered after the purchase.

004 TEMPORARY AGENCY AGREEMENTS

004.01 Someone other than a licensee may operate a business holding a liquor license if all of the following criteria are met:

004.01A A formal application for a new license must be on file with the Commission;

004.01B An agency agreement must be filed with the application. Licensee may designate a creditor, landlord, or new buyer as his/her agent;

004.01C Licensee must maintain a possessory interest in the property in the form of a lease, use permit or license;

004.01D Agents may be paid a specific agency fee. Net profits must be placed in an escrow account during the temporary period; and

004.01E Temporary agency agreements may not exceed 120 days in total duration.

004.01F Any remodeling or other physical changes to the property must include the approval of the Fire Marshal prior to the granting of the temporary agency agreement.(53-119.01)(53-125(13))

004.02 Any violations occurring during the period a temporary agency agreement is in effect will be adjudicated in the following manner:

004.02A If the license application is not issued to the new applicant at the time of the Order, the record of penalty will be recorded against the original licensee.

004.02B If the license is issued to the new applicant, the record of penalty will be recorded against the license of the applicant.

005 LICENSE APPLICATION REQUIREMENTS

005.01 A person applying for a license of any kind, except those issued under Neb. Rev. Stat. 53-124.11, shall file with their license application (1) birth certificate or naturalization papers proving United States citizenship, and (2) the required fingerprints card(s) and fee(s). Fingerprints filed with the Nebraska Liquor Control Commission within the past two years of the filing of the application shall meet this requirement.

005.01A For corporations, fingerprints are required of the Chief Executive

Officer, the manager, or any stockholder owning in the aggregate more than twenty-five percent of the stock of such corporation. For nonprofit corporations and governmental subdivision, this shall only mean the manager. (No citizenship or residency requirements per Sec. 53-125(9))

005.01B Fingerprints of spouses, including those ineligible to hold a license, will not be required upon receipt of a signed affidavit of no interest, upon the form provided by the Nebraska Liquor Control Commission.

005.01C For corporations owning shares in the applicant's corporation, the Chief Executive officer and/or President and any shareholder owning in the aggregate more than twenty-five percent of the stock of the corporation shall file an affidavit on a form supplied by the Commission stating that they are eligible to hold a license under the Nebraska Liquor Control Act.

005.02 Any proposed change from a profit to a nonprofit or from a nonprofit to a for profit license shall require the filing of a new application.

005.03 Any change from an individual license to a partnership, when adding a spouse, or when an individual or partnership incorporates, with no additional partners, or from a corporation to an individual, shall not require the filing of a new application, but may be done by the filing of an affidavit with the Nebraska Liquor Control Commission.

006 RESIDENCY REQUIREMENTS

006.01 Any licensee, required to be a state resident must be a registered voter in Nebraska and must, if a vehicle is owned, have at least one such owned vehicle registered in Nebraska.

006.02 Additionally, all licensees are required to do any two of the following:

006.02A Own or rent property in Nebraska;

006.02B Have a mailing address in Nebraska;

006.02C Actually reside in Nebraska;

006.02D Use a Nebraska address on tax returns.

008 TRADE NAME

008.01 The Liquor Control Commission shall be notified in writing of any change in an operating trade name(DBA). Notification shall be made by

licensee within thirty (30) days of change.

009 MANAGER APPLICATION

009.01 Upon departure, death or termination of a manager, a licensed corporation shall file an application with the Liquor Control Commission for a new manager within sixty (60) days. Should the corporation be unable to establish a manager within sixty (60) days, the corporation may apply for a hardship.

010 FALSIFICATION OF APPLICATION

010.01 No applicant for a liquor license, or partner, principal, agent or employee of any applicant for a liquor license shall provide false or misleading information to the Nebraska Liquor Control Commission, its executive director, or employees. Any violation of this provision may result in denial of application for a liquor license or, in the event that a license has already been issued, suspension, cancellation or revocation of such license.

011 FALSIFICATION OF INFORMATION

011.01 No licensee or partner, principal, agent or employee of any licensee shall provide false or misleading information to the Nebraska Liquor Control Commission, its executive director or employees. Any violation of this provision may result in suspension, cancellation or revocation of such license.

012 DEFINITIONS

012.01 "School" shall mean a building which is used as a place for the instruction of pupils in elementary or high school grades, and which is owned, leased, or otherwise under the jurisdiction and control of a public school district or the administrative body of a private, denominational or parochial school accredited by the State Board of Education, provided, that a satellite location that is not adjacent to the school's primary location and which serves not more than 25% of the number of students enrolled at such school shall not be considered a "school" for purposes of Neb. Rev. Stat. Rec. 53-177. A student attending a satellite location and the school's primary location shall be counted as served by the satellite location.

012.02 "College" shall mean a technical community college, a state

college, or a private college approved by the Nebraska Coordinating Commission for Postsecondary Education.

012.03 "University" shall mean two or more colleges under a central administration, offering baccalaureate and/or graduate degree program.

012.04 "Campus" shall mean any buildings owned, leased, or otherwise under the jurisdiction and control of the administration of a college or university, which are used as a place for the education of students or for student living quarters, and the grounds surrounding such buildings, provided that a satellite location that is not adjacent to a university or college's primary location and which serves not more than 25% of the number of students enrolled at such university or college shall not be considered a "campus" for purposes of Neb. Rev. Stat. Sec 53-177. A student attending a satellite location and the university or college's primary location shall be counted as served by the satellite location."

012.05 "Church" shall mean a building owned by a religious organization, used primarily for religious purposes, and having tax-exempt status under Neb. Rev. Stat., Sec. 77-202 (1) (c) (Cum. Supp. 1992).

012.06 "Guest" shall mean a patron of a club, as defined in Sec. 53-103(20), who comes to the club at the invitation of a member and who uses the club's services or facilities while accompanied by that member. Nothing herein shall prevent clubs from entering into reciprocity agreements to enable a member of one club to use the services or facilities of another club.

012.07 "Beer garden" shall mean an outdoor area included in licensed premises, which is used for the service and consumption of alcoholic liquors, and which is contained by a fence or wall preventing the uncontrolled entrance or exit of persons from the premises, and preventing the passing of alcoholic liquors to persons outside the premises.

012.08 "Sidewalk cafe" shall mean an outdoor area included in licensed premises, which is used by a restaurant or hotel with a restaurant license, for the service of meals as well as alcoholic liquors, and which is contained by a fence, wall, railing, rope, or chain, defining the licensed area.

013 SPECIAL DESIGNATED LICENSES

013.01 All applications for a special designated license, with local governing body approval, and proper fees, must be received by the Commission at least ten working days prior to the event. Such notice is required to enable a reasonable notification to the Nebraska State Patrol, local law enforcement, the fire marshal, and the sanitation division of the Department of Agriculture. Applications not received at least ten working days prior to the event will not be processed.

013.02 In connection with each event, the applicant must provide a written showing of estimated size of the crowd and how it intends to assure that alcohol will not be served to minors and intoxicated persons.

CHAPTER 3 - CORPORATIONS/PARTNERSHIPS

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CHAPTER 3 - CORPORATIONS/PARTNERSHIPS

001 RESIDENT MANAGER FOR CORPORATION

001.01 In the case of a corporation making application for a retail or wholesale license under the Nebraska Liquor Control Act, a resident manager qualified under the laws of Nebraska shall be appointed as by law provided.

001.02 Any person desiring to obtain status as a manager for a corporate license currently in effect and issued by the Nebraska Liquor Control Commission shall file with the Commission:

001.02A An application triplicate original upon such forms that the Commission may from time to time prescribe;

001.02B A duly executed "Power of Attorney" if the same is to be the person making the application for manager (See 53-126).

002 CHANGE OF OWNERSHIP OR CONTROL - CORPORATIONS AND PARTNERSHIPS

002.01 General Partnership: When a licensee operating as a general partnership acquires a new partner, the licensee must at once make that fact known to the commission. The commission may require such information and documentation as it deems necessary from the new partner to enable the State Patrol to complete a background check of the new partner, and/or the commission may require the partnership to submit an application for a new license. One of the general partners must be named as agent. If the general partner is a corporation, one individual must be named as agent (or person in charge) with the filing of a manager's application.

002.02 When one general partner sells part or all of his interest in a licensed business to another existing general partner, or when an existing general partner or general partners acquires by any lawful means an interest held by another general partner or general partners, that fact must be made known to the commission by a sworn affidavit, however, an application for a new license need not be made.

002.03 Limited Partnership: When any business is operated as a limited partnership and one or more of the limited partnerships are sold to another, whether that limited partner is an existing partner or not, the

existence of the change in the limited partnership must be made known to the Commission by affidavit within ten days, however, an application for a new license need not be made.

002.04 Corporations: All direct or indirect interests in a license held in whole or part by a corporation must be disclosed to the Commission in the application for a liquor license. When any corporation applying for a license has outstanding shares issued to a corporation and/or holding company, that fact must be disclosed in the application.

Each corporation listed on the application must disclose any corporation and/or holding company which holds shares in it. For each corporation and/or holding company disclosed, a disclosure shall be made of each shareholder owning in the aggregate more than 25% of the corporation. Any applicant who has a corporation as a shareholder shall file an organizational chart which lists all shareholders which are either a corporation and/or any shareholder which owns in the aggregate more than 25% of the stock of the corporation.

002.05 Corporations: Any transfer of the outstanding and issued stock of a corporation holding a license which results in any person holding in the aggregate more than twenty-five percent of all of the outstanding and issued stock of such corporation shall be communicated to the commission within ten days in writing by certified or registered mail, along with an affidavit of said stockholder in the form prescribed by the commission, concerning whether or not he is qualified to meet the standards established by law for those to whom such a license may be issued as an individual, other than citizenship or residence; in the event such stockholder fails to qualify as hereinbefore set out as a licensee under the Nebraska Liquor Control Act said corporation shall be notified in writing by certified or registered mail, and shall within twenty days of the notification surrender for cancellation said corporate license or show cause why the same should not be surrendered for cancellation or file with the Commission an application for a new liquor license in the manner prescribed by law and regulation.

002.06 The sale of the majority of the corporate outstanding and issued stock or the transfer of the control of the majority of such outstanding and issued stock by a power of attorney or proxy filed with said corporation or held by any person or exercised at any stockholders meeting of a corporation holding a wholesale or retail license under the Nebraska Liquor Control Act shall constitute a change of ownership of said corporation. The corporation shall notify the Commission at once of such a change of ownership. The Commission may require such

information and documentation as it deems necessary from the new owner(s) to enable the State Patrol to complete a background check of those new owner(s) and/or the Commission may require the corporation to submit an application for a new license. When all or part of the outstanding and issued stock of a corporation is held by any number of stockholders, and one or more existing stockholder acquires by sale or transfer any part of or all the outstanding and issued stock held by another existing stockholder, that fact must be made known to the Commission within 10 days of such transfer, by a sworn affidavit stating the number of shares having been transferred and whether or not the transferee is qualified to meet the standards established by law for those to whom such a license may be issued as an individual, other than citizenship or residence, but an application for a new license need not be made.

002.07 Any time any person or persons acquire for the first time a beneficial interest in the form of ownership of outstanding and issued stock in any licensed corporation in an amount equal to more than five percent of the outstanding and issued corporate stock that person must inform the commission by affidavit of the other liquor license in which a beneficial interest is possessed, if any, within ten days by registered mail. Provided, however, any corporate licensee listed on the New York Stock Exchanges or any corporate licensee having one hundred or more shareholders need only so inform the commission of any such beneficial interest of persons comprising the ten largest stockholders of that corporation.

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CHAPTER 4 - STORAGE AND TRANSPORTATION OF ALCOHOLIC LIQUORS

001 STORAGE OF LIQUOR BY RETAIL LICENSEE

001.01 All liquors shall be stored and maintained in the licensed premises of the licensee in a safe manner, and no such liquors shall be stored in any other place than the licensed premises except after application submitted in writing to the commission by said licensee and receipt by said licensee of written authority from the commission.

002 TRANSPORTATION OF LIQUOR BY RETAIL LICENSEES

002.01 A retail licensee shall not permit the transportation of alcoholic liquor from his licensed premises for storage purposes in any manner, for any purpose, or to any location other than has been expressly authorized in writing by the commission.

CHAPTER 5 - LABELS AND CONTAINERS

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CHAPTER 5 - LABELS AND CONTAINERS

001 LABELS

001.01 Labels attached to all original containers or packages of alcoholic liquor offered for sale in this state shall set forth in plain and legible print in the English language:

001.01A The quantity of such liquors in such original containers;

001.01B The grade and quality of such liquors together with

their alcoholic content (except beer);

001.01C The age of such liquor (except beer and wine) if required by federal regulations;

001.01D If the liquor be a blended product, the labels shall include the other ingredients contained in such blended product.

001.02 The labels shall not contain any false or misleading statements or representations. The label of every container of beer shall set forth the name and address of the brewer.

002 CONTAINERS

002.01 All original containers with alcoholic liquors, sold or offered for sale in this State, shall be constructed of such material and be in such form as has been generally found and recognized by State and Federal Enforcement Officers to be safe, sanitary and in no manner prejudicial to the health and interest of the public.

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CHAPTER 6 - LICENSEE OPERATIONS

001 Signs

001.01 The Nebraska Liquor Control Act, Chapter 53, Section 118, establishes in the commission, the power to promulgate a Rule or Regulation establishing standards of honest advertising and representation.

001.02 Any sign advertising alcoholic beverages which is illuminated must be turned off during times when alcoholic beverages sales are prohibited by 53-179 or city ordinance, provided, that a retail licensee may use one interior illuminated sign as a "night light" in the rear of the premises.

001.03 Signs and advertisements shall not contain:

001.03A Any statement, illustration, design, device or representation that is false or misleading;

001.03B Any statement, illustration, design, device or representation which is obscene or indecent or which is obnoxious or offensive to the commonly and generally accepted standards of fitness and good taste;

001.03C Any statement of, or reference to, a price of an alcoholic liquor which is deceptive or misleading or tends to deceive or mislead;

001.03D Any illustration which is not dignified, modest and in good taste;

001.03E Any scene which promotes the sale of alcoholic liquors, including beer, to minors in which is portrayed a child or objects suggestive of the presence of a child or in any manner portrays the likeness of a child or contains the use of figures or symbols which are traditionally associated with children;

001.03F Any statement, design, device or representation relating to any refund, exchange, or money-back guarantee, irrespective of truth or falsity;

001.03G Any reference by name or other identification to any other licensed retailers; or

001.03H Any statement, design, device, or representation which the Nebraska Liquor Control Commission finds to be likely to mislead

the consumer.

002 SAMPLES-ALCOHOLIC LIQUOR

002.01 Samples may be given by a manufacturer, distributor or wholesaler to licensees or employees of licensees who are eligible to purchase alcoholic beverages for the sole purpose of permitting them to determine the grade, type, and quality of alcoholic beverages.

002.02 A manufacturer, distributor or wholesaler may conduct tasting or sampling activities at a retail establishment licensed for on-premise consumption.

002.03 A manufacturer, distributor or wholesaler may give only unopened samples for consumption off the premises to employees or consumers at a retail establishment licensed for off-premise consumption, except, that licensees or employees of licensees may sample wine products on an off sale premise.

002.04 Sampling may be done on the premises of an alcoholic liquor distributor for the purpose of sampling to licensees or employees of licensees.

002.05 No samples may be given unless all taxes, including the Nebraska Excise Tax, have been paid.

002.06 No samples should be shipped or brought into the State of Nebraska except directly to the Nebraska Wholesalers.

003 Keg Registration Requirements

003.01 Where the purchaser obtains more than one keg for off-premises consumption at the same location and on the same date, only one keg registration declaration and receipt form must contain all required information. All other keg registration declaration and receipt forms for that particular transaction must contain the registration number from the fully completed form as a reference and be signed by the purchaser. Such keg registration declaration and receipt forms which contain the reference number of a fully completed form and have been signed by the purchaser constitute a valid and properly completed registration and declaration receipt.

003.02 The keg registration label must be placed on the upper one-third

of the keg.

010 Alcoholic Beverage Products/Pass Through Wholesale Licensed Premise

010.01 All alcoholic beverages purchased for resale in this State prior to being resold at retail shall physically come into the possession of a licensed wholesaler and be unloaded into and distributed from the licensed wholesaler's warehouse located in this State. This rule does not apply to holders of Nebraska craft brewery licenses.

012 DOCK SALES

012.01 Any sale of alcoholic liquors from the dock or licensed premise of a manufacturer, distributor, or wholesaler shall include on the proper invoice the signature of the retailer or retailer's agent who receives delivery of the same at the time of the purchase. It shall be the responsibility of the manufacturer, distributor, or wholesaler to ensure that the retailer is properly licensed and that the retailer's agent is bona fide and acting solely on behalf of the authorizing retailer.

015 ACCEPTABLE FORMS OF PAYMENT

015 Acceptable forms or means of payment between retail licensee and wholesale licensee for purchases of alcoholic beverages. (beer, wine, spirits)

015.01 Retailers business check (The check must carry the name of the business as so licensed with commission. The name shall mean the current D.B.A. or corporate name. If licensed as a proprietorship or partnership, the name of the individual or partner or D.B.A.)

EXCEPTIONS:

015.01A A personal check of the licensee may be accepted by wholesaler if supported by a copy of the liquor license.

015.01B If the business is under a temporary agency agreement, the new operator shall submit a check with the name of the business. Same criteria as 015.01.

015.02 Coins

015.03 Currency

015.04 Debit cards (card must carry the name of the retail business as licensed with commission and signed by licensee or authorized agent.)

015.05 Cashier check (The remitter must be the licensee or authorized agent.)

015.06 Bank Money Order (The remitter must be the licensee or authorized agent.)

015.07 Certified Check (The remitter must be the licensee or authorized agent.)

015.08 Travelers Check (Must carry the signature of the licensee or authorized agent.)

015.09 Payment for beer from a licensed retailer to a licensed beer wholesaler must be completed by the end of the business day from time of the sale..

015.10 Any electronic transfer of funds from a retailer to a wholesaler with respect to beer must be completed within twenty-four hours of the sale and in the case of wine or spirits within thirty days of the sale.

016 TRADE PRACTICE POLICIES

A wholesale licensee, shipper licensee, manufacturer licensee, and craft brewery licensee, (collectively referred to as an “industry member”) may furnish a retail licensee, with equipment, supplies, services, or other things of value, under conditions and within the limitations prescribed.

016.01 PRODUCT DISPLAYS

016.01A GENERAL

016.01A1 The act by industry member of giving or selling product displays to a retailer is allowed provided that the conditions and limitations prescribed in 016.01C of the rule are met.

016.01B DEFINITION

016.01B1 Product displays means any alcoholic liquor racks, bins, barrels, casks, shelving or similar items the primary function of which is to hold shelves or display consumer products.

016.01C CONDITIONS AND LIMITATIONS

016.01C1 The total value of all product displays given or sold by an industry member under 016 of this rule may not exceed \$300 per brand at any one time in any one retail establishment. Industry members may not pool or combine dollar limitations in order to provide a retailer a product display valued in excess of \$300 per brand. The value of a product display is the actual cost to the industry member

who initially purchased it. Transportation and installation costs are excluded.

016.01C2 All product displays must bear conspicuous and substantial advertising matter on the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the product displays.

016.01C3 The giving or selling of such product displays may be conditioned upon the purchase of the distilled spirits, wine, or malt beverages advertised on those displays in a quantity necessary for the initial completion of such display. No other condition can be imposed by the industry member on the retailer in order for the retailer to receive or obtain the product display.

016.02 POINT OF SALE ADVERTISING MATERIALS AND CONSUMER ADVERTISING SPECIALTIES

016.02A GENERAL

016.02A1 The act by an industry member of giving or selling point of sale advertising materials and consumer advertising specialties to a retailer is allowed provided that the condition and limitations prescribed in 016.02C of this rule are met.

016.02B DEFINITIONS

016.02B1 Point of sale advertising materials are items designed to be used within a retail establishment to attract consumer attention to the products of the industry member. Such materials include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverage lists or menus.

016.02B2 Consumer advertising specialties are items that are designed to be carried away by the consumer, such as trading stamps, non-alcoholic mixers, pouring racks, ask trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, shirts, caps, and visors.

016.02C CONDITIONS AND LIMITATIONS

016.02C1 All point of sale advertising materials and consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point of sale advertising materials.

016.02C2 The industry member may not directly or indirectly pay or credit the retailer for using or distributing these materials or for any expense incidental to their use.

016.03 EQUIPMENT AND SUPPLIES

016.03A GENERAL

016.03A1 The act by an industry member of selling equipment or supplies to a retailer is allowed if the equipment or supplies are sold at a price not less than the cost to the industry member who initially purchased them, and if the price is collected within 30 days of the date of the sale. The act by an industry member of installing dispensing accessories at the retailer establishment is allowed as long as the retailer bears the cost of initial installation. The act by an industry member of furnishing, giving, or selling coil cleaning service to a retailer of distilled spirits, wine, or malt beverages is allowed.

016.03B EQUIPMENT AND SUPPLIES

016.03B1 Equipment and supplies means glassware (or similar containers made of other material), dispensing accessories, carbon dioxide (and other gasses used in dispensing equipment) or ice. "Dispensing Accessories" include items such as standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves.

016.03C NEWSPAPER CUTS

016.03C1 Newspaper cuts, mats, or engraved blocks for use in retailers advertisements may be given or sold by an industry member to a retailer selling the industry members products.

016.03D COMBINATION PACKING

016.03D1 The act by an industry member of packaging and distributing distilled spirits, wine, or malt beverages in combination with other (non-alcoholic) items for sale to consumers is allowed.

016.04 EDUCATIONAL SEMINARS

016.04A GENERAL

016.04A1 An industry member may give or sponsor educational seminars for retailers and their employees. Examples would be seminars dealing with use of a

retailers equipment, training seminars for employees of retailers, or tours of industry members plant premises. This rule does not authorize an industry member to pay a retailer expenses in conjunction with an educational seminar (such as travel and lodging). This does not preclude providing nominal hospitality during the event.

016.05 STOCKING, ROTATION AND PRICING SERVICE

016.05A GENERAL

016.05A1 Industry members may, at a retail establishment, stock, rotate, and affix the price to distilled spirits, wine, or malt beverages which they sell, provided products of another industry members are not altered or disturbed. The rearranging or resetting of all or part of a store or liquor department is not hereby authorized.

016.05B SHELF PLAN AND SHELF SCHEMATICS

016.05B1 The act of an industry member of providing a recommended shelf plan or shelf schematic for distilled spirits, wine, or malt beverages is allowed. When requested by a retailer, an industry member may, pursuant to the plan or schematic, rearrange or reset all or part of a store or liquor department so long as the retailer gives all other industry members affected 72 hours notice so they may be present at the time of any rearrangement or reset. (Only those times when alcohol may be lawfully sold be the retailer for whom the services are being provided.)

016.06 PARTICIPATION IN RETAILER ASSOCIATION ACTIVITIES

016.06A GENERAL

016.06A1 The following acts by an industry member participating in retailers association activities is allowed.

016.06A1A Displaying it's products at a convention or trade show

016.06A1B Renting display booth space if the rental fee is the same or paid by all exhibitors at the event.

016.06A1C Providing its own hospitality which is independent from association sponsored activities

016.06A1D Purchasing tickets to functions and paying registration fees if the

payment or fees are the same as paid by all attendees, participants or exhibitors at the event

016.06A1E Making payments for advertisements in programs or brochures issued by retailers associations at a convention or trade show if the total payments made by an industry member for all such advertisements do not exceed \$300 per year for any retailer association.

018 CREDIT: WHOLESALER/RETAILER

018.01 Pursuant to the authority granted in the Liquor Control Act and to meet the requirements contained in Regulations No. 122 (originally issued as FFA Regulation No. 8) issued by the Bureau of Internal Revenue of the United States Treasury Department, the Nebraska Liquor Control Commission hereby adopts the following rule:

018.01A No person, partnership, firm or corporation holding a retailer's license under the Nebraska Liquor Control Act shall accept or receive credit from any manufacturer, distributor or wholesaler on purchases of beer and no retailer shall accept or receive credit from any manufacturer, distributor or wholesaler on purchases of alcoholic liquors, except beer, for a period exceeding 30 days from the date of delivery of any such merchandise.

018.01B No manufacturer, distributor or wholesaler shall extend credit to any such retailer on sales of beer and no manufacturer, distributor or wholesaler shall extend credit to any such retailer on sales of alcoholic liquors, excluding beer, for a period exceeding 30 days from the date of delivery of any such merchandise.

018.01C No retailer shall purchase, accept or receive any alcoholic liquors, including beer, from any manufacturer, distributor or wholesaler if such retailer is delinquent on any account for alcoholic liquors, including beer, to any manufacturer, distributor or wholesaler.

018.01D No manufacturer, distributor or wholesaler shall sell or otherwise furnish any such alcoholic liquors, including beer, to any retail licensee who is delinquent on any account to any other manufacturer, distributor or wholesaler, providing that such delinquency is known to such manufacturer, distributor or wholesaler.

018.01E Every manufacturer, distributor, wholesaler and retailer shall report to the commission such information concerning the extending or

receiving of credit on such forms as the commission may hereafter prescribe and at such times as the commission shall hereafter determine. Such reports shall be by affidavit and sworn to by all licensees.

018.01F Any purchases, sales, practices or transactions entered into between any manufacturer, distributor or wholesaler and any retailer, with the intent to circumvent or evade the provisions of this regulation, shall be considered as a violation thereof.

018.01G Beer wholesalers shall be permitted to give retailers quantity discounts on volume purchases but such discounts shall be calculated on the basis of sales made to each licensee. Individual retail licensees or licensees holding more than one retail license shall not be permitted to combine purchases for purposes of obtaining such quantity discounts.

019 Illegal Conduct: All Licensees:

019.01 Persons, partnerships, and/or corporations holding licenses issued pursuant to the provisions of the Nebraska Liquor Control Act, Section 53-101, et seq., R.R.S. 1943, will be subject to citation and possible administrative sanction to include suspension or revocation for violation of the following:

019.01A Sale to Minor; Defense: No licensee or partners, principals, agents or employees of any licensee shall sell any alcoholic liquors to any person who is a minor as defined in Section 53-103(23) of the Nebraska Liquor Control Act except that proof of the following shall constitute an absolute defense:

019.01A1 The purchaser falsely represented in writing and supported with other documentary proof such as a drivers license that he was of legal age to purchase alcoholic liquor; and

019.01A2 That the appearance of such purchaser was such that an ordinary and prudent person would believe that such appearance conformed to any documentary description of appearance presented by the purchaser; and

019.01A3 The sale was made in good faith and in reliance upon the written representation, other documentary evidence, the appearance of the purchaser, and in the belief the purchaser was of legal age to make such purchase; or

019.01A4 The sale was made with the knowledge of and in cooperation with a duly authorized law enforcement officer or agent of the Nebraska Liquor Control Commission. (53-180, 53-180.07)

019.01B Minor In Possession Within Licensed Premise: No licensee or agent, principal, partner or employee of any licensee shall permit any person who is a minor as defined in Section 53-103(23) of the Nebraska Liquor Control Act to possess for the purpose of consumption any alcoholic liquor in any licensed premises. A licensee who has established the defense of (A) above shall be deemed to have not acted carelessly. (53-180.02)

019.01C Hours of Operation: No licensee or partner, principal, agent or employee shall permit the sale, dispensing or delivery of any alcoholic liquor in or from the licensed premises during hours not permitted by local ordinance or by the provisions of state law.(53-179)

019.01D Open Containers During Prohibited Hours: No licensee or partner, principal, agent or employee of any licensee shall permit any alcoholic liquor, in open containers to remain in the possession or control of any person for the purpose of consumption 15 minutes after the time set for concluding the sale of alcoholic liquor, by state law or by local ordinance whichever is earlier.(53-179(3))

019.01E Silent Partners; Profit Sharing: No licensee or partner, principal, agent or employee of any Retail Liquor License shall permit any other person not licensed or included as a partner, principal, or stockholder of any Retail Liquor License to participate in the sharing of profits or liabilities arising from any Retail Liquor License. (53-1,100)

019.01F Disturbance: No licensee or partner, principal, agent or employee of any licensee shall allow any unreasonable disturbance, as such term is defined hereunder, to continue without taking the steps, as set forth hereunder, within a licensed premise or in adjacent related outdoor areas.

019.01F1 A "Disturbance" as used in this section shall mean any brawl, fight, or other activity which may endanger the patrons, employees, law enforcement officers, or members of the general public within licensed premises or adjacent related outdoor area. Such term shall include incidents involving, but not necessarily limited to: drug dealing; intoxicated individuals; soliciting of prostitution; or any physical contact

between the licensee's agents or employees and its customers, involving any kissing, or any touching of the breast, buttock or genital areas.

019.01F2 Unless there is reason to believe that a licensee or partner, principal, agent or employee of any licensee would endanger himself/herself or others, such person shall take such action as is reasonably necessary to terminate the disturbance. Physical force should be exercised only in extreme circumstances and should be limited to the force reasonably required to terminate the disturbance and remove the individual from the licensed premise, without endangering any patron or other person.

019.01F3 In the event efforts taken in accordance with the preceding subparagraph are not successful or if there is reason to believe that the licensee, partner, principal, agent or employee of any licensee may create a danger to himself/herself or others, than in such event, such person should immediately contact law enforcement personnel to assist in properly handling the disturbance. In the event law enforcement and/or medical personnel are summoned, the directions and/or orders given by such law enforcement or medical personnel shall be followed.

019.01F4 A licensee who has conformed with the procedure as set forth in this section shall be deemed to have not permitted a disturbance to occur and continue.

019.01G Entry Into Premise by Law Enforcement Officer: No licensee or partner, principal, agent or employee of any licensee shall refuse to permit or unreasonably delay in permitting any law enforcement officers, duly appointed investigator, inspector, agent or auditor of the Nebraska Liquor Control Commission entry onto the licensed premises at any time demand for such entry is made by such law enforcement officer, investigator, inspector, agent or auditor of the Nebraska Liquor Control Commission.

019.01H Removal of Alcoholic Liquors From Premise: No licensee or partner, principal, agent or employee of any licensee shall allow any alcoholic liquor to be removed from a licensed premises except where a license is held permitting off-premises sales and then only in original unopened containers.

019.01I Sale For Resale: No licensee or partner, principal, agent or employee other than provided for in 53-175, shall engage, directly or indirectly, in any transaction including or conspiring as to the resale

of any liquors owned by him as a licensee, nor permit the sale or delivery of any alcoholic liquor in such quantities that would place a reasonable-minded person on notice that such liquor might be intended for resale. A defense may be established by the licensee by obtaining from

any such suspected purchaser a statement in writing that the purchase is not being made for the purpose of reselling the alcoholic liquors.

019.01J Refilling; Substitution: No licensee or partner, principal, agent or employee of any licensee shall fill or refill, in whole or in part, any original package of alcoholic liquor, with the same or any other kind, quantity, quality or proof of alcoholic liquor and no licensee or partner, principal, agent or employee of any licensee shall have in his possession for sale at retail, any containers of any kind containing alcoholic liquor, except in original packages.(53-184)

019.01K Delinquent Credit: No licensee or partner, principal, agent or employee of any licensee shall fail to pay for upon delivery, any purchases of beer and shall not accept credit from any manufacturer, distributor or wholesaler of alcoholic liquors namely, spirits or wine, for a period of 30 days. Any purchases of alcoholic liquors for which payment has not been made in full within 30 days of the date of invoice shall constitute a delinquency and shall subject the licensee to citation (53-168).

019.01L Sale of License: No licensee or partner, principal, agent or employee of any licensee shall sell or offer to sell any interest in any liquor license to any other person. In any sale of a business possessing a liquor license, no value may be placed upon the existence of the license itself and the placing of any such value upon the license by the seller of any such business shall subject the seller-licensee to citation.

019.01M Sell on Credit to Consumer: No licensee or partner, principal, agent or employee of any licensee not exempted by the provisions of Section 53-183, shall sell or furnish alcoholic liquor at retail to any person on credit, except that a major credit card may be used in the purchase of alcoholic liquors. The term "major" credit card shall mean any nationally recognized credit card, excluding any card, distributed by an entity that holds a retail license issued by Nebraska.(53-183)

019.01N Sell to Visibly Intoxicated Person/Mentally Incapacitated Person/ Person Incapacitated by Drugs: No licensee or partner, principal, agent or employee of any licensee shall sell, serve, or furnish alcoholic beverages or allow possession of alcoholic beverages on the licensed premise to any person who is or has become intoxicated and/or incapacitated by the consumption of alcoholic beverages and/or other drugs or who is mentally incapacitated. A person shall be deemed to be intoxicated when it can be plainly determined by appearance, conduct, and/or demeanor. Such indicators include, but are not limited to:

019.01N1 Problems with balance, inability to maintain balance, i.e., stumbling, staggering gait, bumping into furniture while walking, falling against bar or off stool, head on bar;

019.01N2 Ineffective muscular coordination, i.e., spilling and/or knocking over drinks, unable to pick up change;

019.01N3 Strong smell of alcohol;

019.01N4 Slurred speech, i.e., thick tongue, uncontrollable voice pitch, muttering;

019.01N5 Bloodshot and/or glassy eyes, i.e., flushed face;

019.01N6 Condition of clothes and hair, i.e., disheveled appearance, messy hair, unzipped clothing;

019.01N7 Unusual behavior, i.e., vomiting, profanity, hiccups, fighting, loud, boisterous, obnoxious behavior.

A concentration of ten hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood, a concentration of ten hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, or a concentration of ten hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her urine. This indicator may only be used in conjunction with at least one other indicator that demonstrates visible intoxication.

019.01O Notices: Every licensee shall cause his license or licenses to be framed and hung in plain view in a conspicuous place on the licensed premises. (53-148) The warning to minors and adults sign and the pregnancy poster must also be on display in a prominent place. (53-180.04 and 53-103.04)

019.01P No retail licensee may deliver alcoholic liquor to a consumer, except:

019.01P1 A holder of a special designated license or a caterer's license used in conjunction with a special designated license may deliver to the licensed location or to a location expressly authorized by the Commission in writing pursuant to Chapter 4 of the Rules and Regulations of the Commission.

019.01P2 A retail licensee may deliver or cause to be delivered by its agent to a consumer alcoholic beverages provided that the consumer has paid the

licensee for the alcoholic liquors prior to delivery by cash, credit or debit card, and that the licensee has verified that the sale has not been made to a minor, nor that delivery will be made to a minor.

019.01P3 The retail licensee is responsible for any violations of the Nebraska Liquor Control Act and/or the Rules and Regulations of the Nebraska Liquor Control Commission which occur as a result of the delivery of alcoholic liquors, including, but not limited to, sales to minors.

019.01P4 The driver for the agent must be 21 years of age.

019.01Q Illegal Activities: The Commission finds that certain illegal activities may induce individuals to enter licensed premises and that the Commission has an interest in insuring that licensees do not use illegal means to promote the sale and consumption of alcohol. The Commission also believes the consumption of alcohol could impair judgment and could lessen inhibitions, causing some consumers to engage in illegal activities or to be victims of illegal activities on or about licensed premises, endangering the health, safety and welfare of individuals. The Commission, therefore, finds there is a nexus between the consumption of alcohol and certain illegal activities that occur within licensed premises or in adjacent related outdoor areas.

Such activities are: drug-related offenses, prostitution or pandering, assaults, sexual assaults, homicide, gambling, vandalism, weapons-related offenses, theft, disturbing the peace, violations of statutes or local ordinances relating to entertainment, acceptance of food stamps for the sale of alcohol or otherwise in violation of federal laws or regulations, and any offense referred to in Section 53-125 (4) or (5), whether or not there has been a plea of guilty or a conviction in criminal court.

If the Commission finds by a preponderance of the evidence that a licensee or employee or agent of a licensee has committed any of the foregoing illegal activities or has knowingly allowed such offense to be committed by others on the licensed premises or adjacent related outdoor areas, the Commission may suspend, cancel or revoke such license.

019.01R Penalties: Upon a determination by the Nebraska Liquor Control Commission that any licensee licensed by it has violated any of the provisions of the Nebraska Liquor Control Act (53-101 through 53-1,200) or the rules and regulations of the Nebraska Liquor Control Commission that license may be subjected to revocation or suspension or other administrative sanction such as the Commission may order.

019.01S SANITATION

019.01S1 Sanitary conditions, conducive to public health and welfare, must be maintained at all times, in, on or about licensed premises, by meeting minimum sanitary standards as set forth in the Nebraska Food Service Code. The minimum standards shall require at least two restrooms for establishments that provide on-premise consumption of alcoholic beverages.

019.01T QUANTITATIVE SALES

019.01T1 All licensees shall maintain on their licensed premises records presently required by federal regulation concerning sales of alcoholic liquor, in an amount of twenty wine gallons or more (27 CFR 194) Such records shall include a record of the name and driver's license number or other identification of the person making the purchase. All licensees shall make such records available to any Nebraska Liquor Control personnel or any other law enforcement officer at any time demand for such is made.

019.01U MULTIPLE DRINKS

019.01U1 No licensee shall sell, or serve for on-premises consumption, an unlimited quantity of beer, wine, or spirits at a specific price.

019.01U2 No licensee shall sell or serve two or more drinks containing beer, wine, or spirits to a person for that person's consumption on the licensed premises for one price. A pitcher shall not be considered a drink, however, no licensee shall sell two or more pitchers for one price.

019.01U3 Nothing in this rule shall limit, or in any way restrict, the price which may be charged by any licensee for a single drink containing beer, wine, or spirits to be consumed on the licensed premises.

019.01U4 No licensee shall mix or pour alcoholic beverages directly into a patron's mouth. The so-called upside-down drinks are prohibited.

019.01W Special Designated Permit/Delivery and Return of Alcoholic Beverages.

019.01W1 Delivery and return of alcoholic beverages must be made within seven (7) days prior and subsequent to the date of the event.

019.01W2 If storage is to be off the licensed premises, written request must be made to and written approval received from the Commission covering the location and dates of the storage.

019.01W3 After the completion of the event for which a special designated permit is obtained, the permittee may remove open containers of alcoholic liquor from the premise. A licensee with a catering permit may store open containers of alcoholic liquor used for catered events provided the alcoholic liquor is stored in a separate and secure area of the licensed premise.

019.01X No licensee or partner, principal, agent or employee of any licensee shall employ or permit any person under the age of nineteen to provide sexually explicit entertainment within a licensed premises; nor shall any person under the age of nineteen be employed or permitted within a licensed premises while unclothed in any sexually explicit manner.

020 CANCELLATION/DENIAL OF LICENSES

020.01 Where approval or authorization for issuance of any liquor license has been made by the Commission subject to any condition and that condition is not met the applicant will be subject at all times during this period of non-issuance to an Order of the Commission to show cause why the approval should not be cancelled and the application denied for failure to meet the conditions for issuance.

020.02 Where a license has been approved by the Commission and forwarded to the city, village or county clerk, as the case may be, for the collection of the appropriate fees and issuance and the applicant does not complete the licensing process by paying such appropriate fees and obtaining such license within twenty-one calendar days from the receipt by the city clerk, village or county clerk, as the case may be, for the license, the clerk shall immediately return the license to the commission and the applicant shall be subject to an Order of the Commission directing the applicant to show cause why the approval of the license should not be cancelled and the application denied.

020.03 Where a license has been issued and the licensee for any reason during the license year fails to operate the license for a total of thirty continuous days or sixty total days the licensee shall be subject to an Order of the Commission directing that the licensee show cause why the license should not be cancelled for non-use.

020.04 Where a license has been issued and the licensee finds that the licensee will not be able to maintain continuous operation during the license year as a result of fire, tornado, flood, loss of lease or some other reason constituting a hardship the licensee shall apply to the commission within thirty days of the occurrence constituting hardship for permission to voluntarily cease operations and maintain the licensee's license for a period of time not to exceed the end of the licensed year for which the license was issued. Any such status afforded shall be reviewable by the commission within sixty days of the end of any license year in which such status has been afforded. Failure to afford such status or the rescission of such status shall subject the licensee to an Order of the Commission to show cause why the licensee's license should not be cancelled.

020.05 Failure on the part of the licensee to show good cause for either (A) the licensee's non-compliance with conditions of issuance, (B) the licensee's non-completion of the licensing process by the paying of the appropriate fees and obtaining the license from local officials, (C) the licensee's non-use or (D) the licensee's non-operation due to hardship shall result in the license being cancelled or the previous preliminary approval being rescinded and the application denied.

CHAPTER 7 - PERMITTEES/REPORTS

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CHAPTER 7 PERMITTEES/REPORTS

001 Permittee Reports

001.01 All licensees and permittees, including Nebraska Breweries, who are required to file reports and pay taxes which may become due upon beer by operation of Sec. 53-161, Neb. R.S., as amended, who shall fail to submit reports required by said Sec. 53-161, Neb. R.S., as amended, and pay taxes due thereunder at the time and in the manner therein required, shall be subject to immediate suspension by written order of the Nebraska Liquor Control Commission of all permits, licenses and authority to do business in the State of Nebraska, as provided in the Nebraska Liquor Control Act, in the event said reports and taxes are not paid within ten (10) days after the date set forth in said Sec. 53-161, as amended.

001.02 The commission may issue such a suspension order without written prior notice or formal public hearing, such suspension shall become effective upon the date notice of same is received in writing by certified or registered mail, and, provided further, that in the event such licensee or permittee shall later comply with the requirements of the Nebraska Liquor Control Act, the commission may remove such order of suspension without prior notice or formal public hearing, said removal shall become effective by the same manner as the original order.

002 Record Retention

002.01 All licensees and or holders of shipper's permits shall retain and preserve true books of accounts and records of all business receipts, disbursements and funds used in connection with the licensed business for a period of three years.

002.02 All retailers shall keep invoices and records involving the purchase of alcoholic liquors for the previous twelve months, and make them available for inspection upon demand to the Commission or its agents.

CHAPTER 8 - STATE INSTITUTIONS

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CHAPTER 8 - STATE INSTITUTIONS

001 Alcohol to State Institutions

001.01 By reason of Section 2 of Article VIII of the Constitution of Nebraska, State Institutions under the jurisdiction of the Board of Control of the State of Nebraska or other Departments of the State, may purchase alcohol from manufacturers and/or distributors duly licensed in this state, and possess and use the same for non-beverage purposes only in such institutions, without having first obtained a nonbeverage user's license or any other license or permit; and that sale and delivery of alcohol direct to such state institutions, created by Statute, may be made by such manufacturers and/or distributors, provided they keep such records and accounts thereof as are provided by law in the case of sale or delivery of alcohol to licensed nonbeverage users.

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001 Waiver of 75%/25%

001.01 The commission may grant an exemption under 53-123.13 for a natural disaster only.

001.02 In determining the twenty-five percent of product allowed from outside the state under 53-103(32), each agricultural product must individually meet this requirement.

001.03 Agricultural product under 53-103(32) shall mean any grapes, fruit, berries or honey whether in whole cluster, whole berry, crushed, uncrushed or pressed to juice form, liquid or frozen, as long as the product has not been altered or added to in any way (other than skin removal). "Agricultural product" shall not mean any product that already contains alcohol, produced from outside this state.

001.04 The 75% limitation will be calculated based on the number of gallons of finished wine produced from Agricultural Products grown in this state. The remaining 25% will be based on the number of gallons of finished wine produced from Agricultural Products imported from outside the state. The licensee may import an agriculture product from outside the state of Nebraska during a calendar year in an amount needed to produce a quantity of finished wine not exceeding 25% of the finished wine produced by the licensee from the same Nebraska-grown agricultural product during the prior calendar year.

002 Signs, Advertising

002.01 Any bottle(s) containing more than twenty-five percent of product from outside the state shall not be labelled to imply the product is a Nebraska product.

003 Record Keeping/Documentation

003.01 Production records/documentation shall be kept on each product to include the amounts and type of raw material used, source of raw materials and amount produced. These records shall be maintained for a period of not less than three years and open to audit/inspection by any agent or employee of the Nebraska Liquor Control Commission.

004 Branch Outlet/Sampling

004.01 A farm winery desiring the branch outlet allowed for sampling in 53-123.11(d) need not apply for a separate license but shall seek prior

approval of the location from the Commission and the local governing body.

005 Distribution

005.01 Farm wineries may wholesale to licensed retailers on and off site.

005.02 Farm wineries may ship wines by common carrier to licensed wholesalers. Farm wineries with annual production not exceeding 15,000 gallons in the prior calendar year may also ship wines by common carrier to licensed retailers, and to consumers.

006 Place of Fermentation

006.01 The fermentation of Agricultural Products shall take place on the licensed premises. This does not include any natural fermentation of product being shipped into the farm winery under 001.03.